

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-0048-PST-E TCEQ ID: RN102045739 CASE NO.: 27926
RESPONDENT NAME: KAMAL KASSIRA DBA EAST FOOD MART

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 2740 Sandy Lane, Fort Worth, Tarrant County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There is no record of additional pending enforcement actions regarding this facility. The Respondent has an outstanding balance of \$12.50 from a previous enforcement action at another facility.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 29, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Ms. Judy Kluge, Waste Enforcement Section, MC R-4, (817) 588-5825 TCEQ Regional Contact: Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903 Respondent: Mr. Kamal Kassira, Owner, East Food Mart, 2740 Sandy Lane, Fort Worth, Texas 76112 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint</p> <p><input checked="" type="checkbox"/> Routine</p> <p><input type="checkbox"/> Enforcement Follow-up</p> <p><input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 14, 2005</p> <p>Date of NOE Relating to this Case: January 4, 2006</p> <p>Background Facts: The EDPRP was filed on March 20, 2008. The Respondent filed an answer and the case was referred to SOAH. An Agreed Order was signed on October 27, 2008.</p> <p>Current Compliance Status: The Respondent is not yet in compliance.</p> <p>PST:</p> <p>1. Failed to conduct inventory control procedures for all USTs involved in the retail sale of petroleum substances as motor fuel [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>2. Failed to ensure that an application for renewal of a delivery certificate is properly and timely filed [30 TEX. ADMIN. CODE §§ 334.8(c)(4)(A)(vii) and 334.8(c)(5)(B)(ii)].</p> <p>3. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>4. Failed to pay UST fees for Fiscal Year 2005 as recorded in TCEQ Financial Account No. 0055906U [30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702].</p>	<p>Total Assessed: \$5,625</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p><input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$2,000/\$3,625</p> <p>The Respondent has paid \$2,000 of the administrative penalty. The remaining amount of \$3,625 shall be payable in 25 monthly payments of \$145.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Action:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures:</p> <p>1. As of December 15, 2005, submitted a current UST Registration and Self-Certification form and obtained a delivery certificate; and</p> <p>2. As of January 27, 2006, the TCEQ Regional Office received verification of inventory control being conducted at the Facility.</p> <p>Respondent shall undertake the following technical requirements:</p> <p>1. Within 30 days submit payment for all outstanding UST fees, including any associated penalties and interest; and,</p> <p>2. Within 45 days, submit written certification to demonstrate compliance with the above Ordering Provision.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

TCEQ

DATES Assigned 09-Jan-2006
 PCW 12-Jan-2006 Screening 11-Jan-2006 EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Kamal Kassira dba East Food Mart
 Reg. Ent. Ref. No. RN102045739
 Facility/Site Region 4-Dallas/Fort Worth Major/Minor Source Minor Source

CASE INFORMATION

Enf./Case ID No. 27926 No. of Violations 4
 Docket No. 2006-0048-PST-E Order Type 1660
 Media Program(s) Petroleum Storage Tank
 Multi-Media
 Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000
 Enf. Coordinator Judy Kluge
 EC's Team Enforcement Team 6

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$4,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 25% Enhancement Subtotals 2, 3, & 7 \$1,125

Notes Enhancement for one previous Default Order.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes Respondent does not meet culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 \$0

Before NOV NOV to EDPRP/Settlement Offer
 Extraordinary
 Ordinary
 N/A X (mark with a small x)

Notes Respondent is not yet in compliance.

Economic Benefit 0% Enhancement* Subtotal 6 \$0

Total EB Amounts \$4
 Approx. Cost of Compliance \$300
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal \$5,625

OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$5,625

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$5,625

DEFERRAL

0% Reduction

Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes This is not an expedited case.

PAYABLE PENALTY

\$5,625

Screening Date 11-Jan-2006

Docket No. 2006-0048-PST-E

PCW

Respondent Kamal Kassira dba East Food Mart

Policy Revision 2 (September 2002)

Case ID No. 27926

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102045739

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

>> Repeat Violator (Subtotal 3)

No <

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer <

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History Notes

Enhancement for one previous Default Order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 11-Jan-2006

Docket No. 2006-0048-PST-E

PCW

Respondent Kamal Kassira dba East Food Mart

Policy Revision 2 (September 2002)

Case ID No. 27926

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102045739

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.48(c)

Secondary Rule Cite(s)

Violation Description

Failed to conduct inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel. Specifically, at the time of the investigation, inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tank were not being performed each operating day.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent 25%
	Potential	X			

>> Programmatic Matrix

		Harm			
Falsification		Major	Moderate	Minor	
					Percent

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One monthly event is recommended from the investigation date of December 14, 2005 to the screening date of January 11, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$3,125

This violation Final Assessed Penalty (adjusted for limits) \$3,125

Economic Benefit Worksheet

Respondent Kamal Kassira dba East Food Mart

Case ID No. 27926

Reg. Ent. Reference No. RN102045739

Media [Statute] Petroleum Storage Tank

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$200	14-Dec-2005	27-Jan-2006	0.1	\$1	n/a	\$1
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs	Estimated cost to conduct inventory control for all USTs involved in the retail sale of petroleum substances used as motor fuel. Date required is the date of the investigation and the final date is the date compliance documentation was submitted to the TCEQ Regional Office.						

Avoided Costs		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs							

Approx. Cost of Compliance

\$200

TOTAL

\$1

Screening Date 11-Jan-2006

Docket No. 2006-0048-PST-E

PCW

Respondent Kamal Kassira dba East Food Mart

Policy Revision 2 (September 2002)

Case ID No. 27926

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102045739

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and 334.8(c)(5)(B)(ii)

Secondary Rule Cite(s)

Violation Description

Failure to ensure that an application for renewal of a delivery certificate is properly and timely filed. Specifically, the UST registration and self-certification form was not submitted to the agency prior to the June 30, 2005 expiration date.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			Percent
Release		Major	Moderate	Minor	
OR	Actual				
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			

Matrix Notes

100% of the rule requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$1,000

One single event is recommended based on the investigation date of December 14, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$1,250

This violation Final Assessed Penalty (adjusted for limits) \$1,250

Economic Benefit Worksheet

Respondent Kamal Kassira dba East Food Mart

Case ID No. 27926

Reg. Ent. Reference No. RN102045739

Media [Statute] Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$100	30-Jun-2005	15-Dec-2005	0.5	\$0	\$3	\$3
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

This is an estimated cost to complete and submit a UST registration and self-certification form and renew the delivery certificate. The date required is the expiration date of the previous delivery certificate and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$100****TOTAL \$3**

Screening Date 11-Jan-2006

Docket No. 2006-0048-PST-E

PCW

Respondent Kamal Kassira dba East Food Mart

Policy Revision 2 (September 2002)

Case ID No. 27926

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102045739

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 3

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(A)(i)

Secondary Rule Cite(s) Tex. Water Code § 26.3467(a)

Violation Description

Failure to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the previously issued delivery certificate had not been renewed prior to accepting three deliveries of fuel on August 24, 2005, October 26, 2005, and December 12, 2005.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual				
	Potential				Percent

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		X			Percent 10%
Matrix Notes	100% of the rule requirement was not met.				

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

	daily	
	monthly	
mark only one	quarterly	
use a small x	semiannual	
	annual	
	single event	X

Violation Base Penalty \$1,000

One single event is recommended based on the December 14, 2005 investigation date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,250

This violation Final Assessed Penalty (adjusted for limits) \$1,250

Economic Benefit Worksheet

Respondent Kamal Kassira dba East Food Mart
 Case ID No. 27926
 Reg. Ent. Reference No. RN102045739
 Media [Statute] Petroleum Storage Tank
 Violation No. 3

Percent Interest 5.0
 Years of Depreciation 15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included on Violation No. 2.

Avoided Costs		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 11-Jan-2006

Docket No. 2006-0048-PST-E

PCW

Respondent Kamal Kassira dba East Food Mart

Policy Revision 2 (September 2002)

Case ID No. 27926

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102045739

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 4

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.22(a)

Secondary Rule Cite(s) Tex. Water Code § 5.702

Violation Description Failed to pay UST fees for Fiscal Year 2005 as recorded in TCEQ
Financial Account No. 0055906U.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			Percent
		Major	Moderate	Minor	
OR	Release				
	Actual				
	Potential				

>> Programmatic Matrix

		Major	Moderate	Minor	Percent
	Falsification				

Matrix Notes

Adjustment -\$10,000

Base Penalty Subtotal \$0

Violation Events

Number of Violation Events

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$0

No administrative penalty is calculated for this violation as penalty and interest will be assessed at the next billing.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Kamal Kassira dba East Food Mart

Case ID No. 27926

Reg. Ent. Reference No. RN102045739

Media [Statute] Petroleum Storage Tank

Violation No. 4

Percent
Interest 5.0
Years of
Depreciation 15

	Item	Date	Final	Yrs	Interest	Onetime	EB
	Cost	Required	Date		Saved	Costs	Amount
	Description	No commas or \$					
Delayed Costs							
	Equipment			0.0	\$0	\$0	\$0
	Buildings			0.0	\$0	\$0	\$0
	Other (as needed)			0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
	Land			0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
	Training/Sampling			0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
	Permit Costs			0.0	\$0	n/a	\$0
	Other (as needed)			0.0	\$0	n/a	\$0
Notes for DELAYED costs				N/A			

Avoided Costs		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs							
Approx. Cost of Compliance				TOTAL			
\$0				\$0			

Compliance History

Customer/Respondent/Owner-Operator:	CN602961112	Kassira, Kamal	Classification: AVERAGE	Rating: 1.50
Regulated Entity:	RN102045739	East Food Mart	Classification: AVERAGE	Site Rating: 1.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	56693	
Location:	2740 SANDY LN, FORT WORTH, TX, 76112	Rating Date: 9/1/2005	Repeat Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	September 18, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 09, 2001 to January 09, 2006			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Judy Kluge Phone: (817) 588-5825

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Kamal Kassira
4. If Yes, who was/were the prior owner(s)? Sandy's Food Mart
5. When did the change(s) in ownership occur? December 15, 2005

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A Effective Date: 07/23/2001 ADMINORDER 2000-0178-PST-E

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(1)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to conduct the initial compliance testing for the Stage II Vapor Recovery System.

Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(1)(A)

Description: Failed to provide written notice to the TNRCC ED of a change in ownership of the three USTs located at the Station.

Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter B 334.21
30 TAC Chapter 334, SubChapter B 334.22

Description: Failed to pay UST fees, associated penalties, and interest for UST.
- B. Any criminal convictions of the state of Texas and the federal government.

N/A
- C. Chronic excessive emissions events.

N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 11/08/2001 (IE0017504001001)

2 01/03/2006 (449658)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- F. Environmental audits.

N/A
- G. Type of environmental management systems (EMSs).

N/A
- H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
KAMAL KASSIRA DBA EAST
FOOD MART
RN102045739**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2006-0048-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Kamal Kassira dba East Food Mart ("Mr. Kassira") under the authority of TEX. WATER CODE chs. 5, 7, and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Kassira, appear before the Commission and together stipulate that:

1. Mr. Kassira owns and operates a convenience store with retail sales of gasoline located at 2740 Sandy Lane in Fort Worth, Tarrant County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 5 and 26 and TCEQ rules.
3. The Commission and Mr. Kassira agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Kassira is subject to the Commission's jurisdiction.
4. Mr. Kassira received notice of the violations alleged in Section II ("Allegations") on or about January 9, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Kassira of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of five thousand six hundred twenty-five dollars (\$5,625.00) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). Mr. Kassira has paid two thousand dollars (\$2,000.00) of the administrative penalty. The remaining amount of three thousand six hundred twenty-five dollars (\$3,625.00) of the administrative penalty shall be payable in 25 monthly payments of one hundred forty-five dollars (\$145.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Mr. Kassira fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Mr. Kassira's failure to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Kassira to timely and satisfactorily comply with all of the terms of this Agreed Order.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mr. Kassira has agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director of the TCEQ recognized that Mr. Kassira implemented the following corrective measures at the Facility in response to this enforcement action:
 - a. As of December 15, 2005, the TCEQ Regional Office received verification of a current UST registration and self-certification form submitted to the TCEQ and issued a current, valid delivery certificate; and
 - b. As of January 27, 2006, the TCEQ Regional Office received verification of inventory control being conducted at the Facility.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Kassira has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. Mr. Kassira is alleged to have violated:
 - a. 30 TEX. ADMIN. CODE § 334.48(c), by failing to conduct inventory control procedures for all USTs involved in the retail sale of petroleum substances as motor fuel.
 - b. 30 TEX. ADMIN. CODE §§ 334.8(c)(4)(A)(vii) and 334.8(c)(5)(B)(ii), by failing to ensure that an application for renewal of a delivery certificate is properly and timely filed.
 - c. 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs.
 - d. 30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702, by failing to pay UST fees for Fiscal Year 2005 as recorded in TCEQ Financial Account No. 0055906U.
 - e. Default Order, Docket No. 2000-0178-PST-E, Ordering Provision No. 1, by failing to pay the \$2,500 administrative penalty as ordered in the aforementioned Default Order, effective July 23, 2001.

III. DENIALS

Mr. Kassira generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Kassira pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and Mr. Kassira's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Kamal Kassira dba East Food Mart, Docket No. 2006-0048-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Mr. Kassira shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Mr. Kassira shall:
 - i. Submit payment for all outstanding UST fees, including any associated penalties and interest, with the notation, "Kamal Kassira, TCEQ Financial Account No. 0055906U."
 - ii. Submit payment for the administrative penalty ordered by the Default Order, including any penalties and interest, with the notation, "Kamal Kassira dba Sandy's Food Mart-TCEQ Default Order Docket No. 2000-0178-PST-E."
 - iii. Payment for the outstanding UST fees and the outstanding amount of the administrative penalty shall be made payable to "Texas Commission on Environmental Quality" and shall be sent to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

- b. Within 45 days after the effective date of this Order, Mr. Kassira shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals

immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Mr. Kassira shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Waste Section Manager
Dallas/ Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

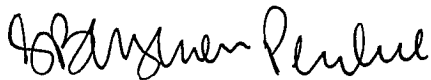
3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Kassira. Mr. Kassira is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Mr. Kassira fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Kassira's failure to comply is not a violation of this Agreed Order. Mr. Kassira shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Kassira shall notify the Executive Director within seven days after Mr. Kassira becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Kassira shall be made in writing to the Executive Director. Extensions are not effective until Mr. Kassira receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Kassira in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T. CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Kassira, or three days after the date on which the Commission mails notice of the Order to Mr. Kassira, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.


SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

12/9/2008 
~~10-27-08~~


Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution


Signature

10-27-08
Date

KAMAL KASSIRA

Name (Printed or typed)

Authorized representative of

Kamal Kassira dba East Food Mart

Owner

Title